

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDRE L. CLARK,

Plaintiff,

v.

Case No. 2:19-cv-11410

District Judge Paul D. Borman

Magistrate Judge Anthony P. Patti

FORD MOTOR COMPANY and
FORD MOTOR COMPANY
GENEAL RETIREMENT PLAN,

Defendants.

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**ORDER GRANTING PLAINTIFF'S MOTION FOR AN ORDER
GRANTING LEAVE TO AMEND THE FIRST AMENDED COMPLAINT
(ECF NO. 55)**

This is an ERISA case. On August 16, 2019, Plaintiff filed an amended complaint, which sets forth claims to recover full pension benefits and alleges breach of fiduciary duty against Defendant Ford, breach of fiduciary duty and equitable estoppel against Defendants, and retaliatory discharge for interference with employee benefits against Defendant Ford. (ECF No. 14.) Since the filing of the operative pleading, the Court has granted in part and denied in part Defendants' motion to dismiss (ECF Nos. 15, 23), entered an ERISA scheduling order (ECF No. 29), and denied Plaintiff's statement of procedural challenge (ECF Nos. 33, 49, 50).

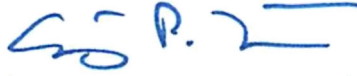
Judge Borman has referred the matter to me for all pretrial proceedings. (ECF No. 51; *see also* ECF No. 56.) Currently before the Court is Plaintiff's July 19, 2021 Fed. R. Civ. P. 15(a)(2) motion for leave to file a second amended complaint (ECF No. 55), attached to which is a proposed amended pleading (ECF No. 55-1), and as to which a response and a reply have been filed (ECF Nos. 58, 59). On August 23, 2021, the Court conducted a hearing via video conference, at which attorneys J. J. Conway and Karl Nelson appeared. (ECF No. 57.)

Upon consideration of the motion papers and oral argument, and for all of the reasons stated on the record by the Court, which are hereby incorporated by reference as though fully restated herein, Plaintiff's motion to amend (ECF No. 55) is **GRANTED**. In sum, the factors set forth in *Foman v. Davis*, 371 U.S. 178, 182 (1962) – “undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.” – balance in Plaintiff's favor, and “[t]he court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). No later than **August 30, 2021**, Plaintiff shall file a second amended complaint that is in complete conformity with what has been proposed (ECF No. 55-1), albeit as a clean copy. Defendant shall file an answer to the second amended complaint no later than **September 13, 2021**. As to any related adjustments to the July 6, 2021

stipulation setting briefing schedule (ECF No. 54), parties will submit a new stipulated order to me (through CM/ECF Utilities) for entry.

IT IS SO ORDERED.

Dated: August 24, 2021



Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE